

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU

&

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WA.No. 1756 of 2007

AGAINST THE JUDGEMENT IN WP(C) NO.6943/2007 Dated 07/03/2007

APPELLANT: PETITIONER:

CHANDRA BOSE, S/O KRISHNAN,
MANNIKKALA VEEDU, MYLAMKULAM PUTHOOR P.O.,
KULAKKADA VILLAGE, KOTTARAKKARA, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: RESPONDENTS:

1. THE KERALA STATE FINANCIAL CORPORATION
REPRESENTED BY MANAGING DIRECTOR,
VELLAYAMBALAM, THIRUVANANTHAPURAM.
2. THE CHIEF MANAGER,
KERALA STATE FINANCIAL CORPORATION,
DISTRICT OFFICE, CHINNAKKADA, KOLLAM.
3. VENU @ RAJENDRAN, NEDIYAVIL VEEDU,
MAVADI P.O., PUTHOOR, KOTTARAKKARA,
KOLLAM DISTRICT.
4. R.JAYACHANDRAN NAIR, S/O K.RAGHAVAN PILLAI,
SREE RAGHAM, VENDAR P.O., PUTHOOR,
KOTTARAKKARA, KOLLAM.

STANDING COUNSEL FOR KFC SRI.A.A.ABDUL HASSAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1756 OF 2007

Dated this the 20th July, 2007

JUDGMENT

SANKARAN, J.

The petitioner in W.P.(C) No.6943 of 2007 is the appellant. The writ petitioner filed a suit against the third respondent as O.S.No.58 of 1999, on the file of the Sub Court, Kottarakkara, for realisation of money. Pending suit, there was an attachment before judgment. The suit was decreed as per Ext.P1 decree, dated 31.3.2001.

2. The property belonging to the third respondent was mortgaged in favour of the Kerala Financial Corporation. The Kerala Financial Corporation initiated proceedings under Section 29 of the State Financial Corporation Act against the third respondent. Since there was an attachment in O.S.No.58 of 1999, the Kerala Financial Corporation filed a claim petition in E.P.No.72 of 2002 in O.S.No.58 of 1999. That claim petition was allowed as per Ext.P2 order dated 4.4.2005. The writ petitioner was a party to Ext.P2 proceedings. Ext.P2 order has become final.

3. The Kerala Financial Corporation sold the property of the third respondent to the fourth respondent as per Ext.P3 document No.1418/2006. The contention of the writ petitioner is that the property was sold for a lower price in favour of the fourth respondent and in collusion with the third respondent and Kerala Financial Corporation. The

writ petitioner is only the holder of a money decree. He has no right to challenge the sale made by the Kerala Financial Corporation after invoking the powers under Section 29 of the State Financial Corporation Act. Though the petitioner submitted a representation to the Kerala Financial Corporation, the Kerala Financial Corporation has sent Ext.P4 reply wherein it is stated that a decision was taken to sell the land of the third respondent to the fourth respondent in 2004 itself, even before Ext.P2 order was passed.

4. Petitioner has no legal right to challenge the sale made by the Kerala Financial Corporation in favour of the fourth respondent. It is to be noted that the third respondent has not questioned the sale. There are no materials to arrive at the conclusion that there was collusion between third respondent and the Kerala Financial Corporation. The learned single Judge was right in holding that the writ petitioner is not entitled to any relief in the Writ Petition.

The Writ Appeal fails and it is accordingly dismissed.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

W.A. NO.1756 OF 2007

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H.L.DATTU, C.J. &
K.T.SANKARAN, J.

W.A.NO. OF

JUDGMENT

19th July, 2007
